

EXHIBIT A

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

CYBERCREEK ENTERTAINMENT, LLC
6831 Seneca Street
Elma, New York 14059
Plaintiff,

SUMMONS

Index No.: 802510/2016

vs.

U.S. UNDERWRITERS INSURANCE COMPANY
1190 Devon Park Drive
Wayne, Pennsylvania 19087
Defendant.

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to serve upon Plaintiff's attorney, at the address stated below, a written Answer to the attached Complaint in this action.

If this Summons is served upon you within the State of New York by personal service you must respond within twenty (20) days after service, exclusive of the day of service, or within thirty (30) days after completion of service, where service is made in any other manner than by personal delivery within the State.

In case of your failure to answer, judgment will be taken against you, by default, for the relief demanded in the Complaint.

This action is brought in the County of ERIE because of:

X Plaintiff's residence, or place of business

 Defendant's residence

 Designation made by Plaintiff

DATED: Buffalo, New York
March 9, 2016

Yours, etc.,

DeMARIE & SCHOENBORN, P.C.

BY: 

SEAN D. SCHOENBORN, ESQ.

Attorneys for Plaintiffs

500 Rand Building

14 Lafayette Square

Buffalo, New York 14203

(716) 856-0024

STATE OF NEW YORK
SUPREME COURT : COUNTY OF ERIE

CYBERCREEK ENTERTAINMENT, LLC,

Plaintiff,

COMPLAINT

vs.

Index No.: 802510/2016

U.S. UNDERWRITERS INSURANCE COMPANY,

Defendant.

Plaintiff, by its attorneys, DeMARIE & SCHOENBORN, P.C., as and for its complaint against the defendant sets forth and alleges as follows:

1. That at all times herein mentioned Plaintiff, CYBERCREEK ENTERTAINMENT, LLC (hereinafter referred to as "CYBERCREEK") was and is a domestic limited liability company with office for the transaction of business in the Town of Elma, County of Erie and State of New York.

2. That upon information and belief the Defendant, U.S. UNDERWRITERS INSURANCE COMPANY, (hereinafter referred to as "U.S.") is a foreign company organized and existing in the Commonwealth of Pennsylvania.

3. That at all times herein mentioned, the Defendant, U.S., did business in the State of New York, County of Erie.

4. That the Plaintiff operated an outdoor and indoor driving range for golf and a restaurant all located at 6831 Seneca Street, Elma, New York (hereinafter the "property").

5. That commencing in or about April 2011, the Defendant, at the request of the Plaintiff, issued a policy of insurance to the Plaintiff for the purpose of, among other things,

insuring the property of the Plaintiff against loss as a result various causalities. The policy expired in April 2012.

6. Thereafter, in April 2012 and again in April 2013, the Defendant did issue a similar policy of insurance to the Plaintiff for the purpose of covering the same property. Both of those policies were for one year.

7. That on or about April 26, 2014 the Defendant, U.S., did issue a policy of insurance to the Plaintiff, CYBERCREEK, under policy number, CP3554324C. That policy was set to expire on April 26, 2015 and a premium was paid to the Defendant for that insurance coverage.

8. That said Insurance policy provided insurance coverage to the Plaintiff for the property, for among other things, COMMERCIAL PORPERTY COVERAGE with building coverage of \$900,000.00 and business property coverage of \$150,000.00.

9. That at some point in and around July, 2014, the Defendant, through its representatives, caused an inspection of Plaintiff's property.

10. That upon information and belief, the inspection resulted in "recommendations" to Plaintiff for improvements to the property.

11. That although Plaintiff was not under any obligation to do so, he attempted to make the improvements suggested by Defendants.

12. That the Defendant, thereafter, and on or about August 27, 2014 unilaterally cancelled the policy of insurance under policy number CP3554324C effective September 30, 2014.

13. That the Defendants actions were unjustified as they had no right to demand changes in the property after they agreed to insure the property through April of 2015.

14. That the actions of the Defendant constituted a breach of the contract of insurance they had with the Plaintiff.

15. That UI & B, Plaintiff was unable to obtain alternative insurance coverage due to the cancellation.

16. That on or about November 20, 2014, well within the policy period, the Plaintiff's property was severely damaged by snow and ice, causing a collapse of a portion of the property, to wit: a building.

17. That the improvements the Defendant demanded had nothing to do with the collapse of the building.

18. The damage caused to the building would have been and should have been covered by the policy issued by the Defendants.

19. That as a result of the said building collapse, Plaintiff has sustained damages for the loss of the building and loss of business since the date of the collapse in the sum of \$800,000.00.

AS AND FOR A SECOND CAUSE OF ACTION

20. Repeats, restates and realleges paragraphs First through Nineteen as if fully set forth herein.


21. That as a result of the actions of the Defendant the Plaintiff is entitled to punitive damages in an amount to be determined by a trier of fact.

WHEREFORE, Plaintiff demands judgment against the Defendant in the amount of \$800,000.00 on the first cause of action and an amount of punitive damages to be determined by a trier of fact plus costs and disbursements of this action.

Dated: Buffalo, New York
March 9, 2016

DeMARIE & SCHOENBORN, P.C.

BY:


SEAN D. SCHOENBORN, ESQ.
Attorneys for Plaintiff
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Buffalo, New York 14203
(716) 856-0024